

THE LEONARD LETTER

October 24, 2005

QUOTE OF THE WEEK

"It does not require a majority to prevail; but rather an irate, tireless minority keen to set brushfires in people's minds." --- Samuel Adams

MEDIA WATCH

*****LA Times Attack Based on Nothing*****

Last week the Los Angeles Times launched one of the worst cheap shots at the Governor in recent memory. The ridiculous lie first appeared in an Evan Halper story on October 20, "Hunt for Tax Cheats Is Curbed by the Governor" and the paper compounded the mistake by repeating the same charge in an editorial the next day. What is unclear is if the mistake was intentional, or if the LA Times was duped by the Franchise Tax Board.

The claim made in the two articles is that the Governor's veto of a bill will prevent the Franchise Tax Board from collecting California's share of income tax when the IRS rules against a taxpayer. According to the LA Times, the bill was needed because a state appellate court recently ruled that a taxpayer does not have to pay the state if the IRS judgment comes four years after the state taxes are due. The Times paraphrased an unnamed FTB "official" who said the veto will mean that FTB employees will no longer be able to collect \$30 million a year from "tax cheats." What the LA Times neglected to mention is that the court case that is the basis for this indictment of the Governor has been granted review by the California Supreme Court. Therefore, the lower court's ruling is no longer published, no longer eligible to be cited, and FTB employees are not allowed to follow it. Thus, the problem that the Governor supposedly failed to address does not even exist.

*****Alleged Tax Cheats*****

We all know there are people who cheat on their taxes. But the little-known secret is that these are a very small part of the total. There are many categories of taxpayers, including those who pay more than required. This is because our tax laws are not always clear. Some taxpayers come to a different interpretation of the law, and until their dispute comes before either the BoE or Superior Court for resolution, it is a smear to label these people "tax cheaters." It is beyond shameful that pedophiles and murderers get the benefit of the doubt in some media, but this same basic principle of fairness is not applied to California taxpayers. Witness the headline of the LA Times story mentioned above, "Hunt for Tax Cheats is Curbed by the Governor." How is it that the Times calls, say, a man caught with a bloody axe standing over a body, an "alleged murderer" but does not hesitate at all to call someone who disputes a tax bill a "tax cheat"?

*****Sacramento Bee Does it Right*****

On the other hand, I was pleased to see a column in last week's Sacramento Bee by Marjie Lundstrom that detailed the unfortunate experience of a taxpayer who received a huge bill from the FTB for taxes supposedly due from 1985 and 1986. The poor taxpayer could not even remember her address from that time. What is notable is, unlike the LA Times, Lundstrom did not assume the taxpayer was a tax cheat. I am pleased to report that the taxpayer advocate office at FTB took a second look and found the taxpayer was actually owed a \$600 refund. My thanks to Marjie Lundstrom for a great story that shows that human error does occur at our tax departments, which is one good reason for having an elected tax board that hears tax appeals. And kudos to the advocate's office at FTB for their great work in correcting the error. Since the beginning of my term I have directed more resources to the advocate's office here at BoE, and I am proud of the forthright and compassionate service they provide to taxpayers.

AROUND THE STATE

*****Time for Nuclear*****

The Los Angeles Department of Water & Power Manager was quoted as saying that using natural gas to make electricity instead of nuclear power increased the cost by five times. This is a very powerful argument to build nuclear power stations. It is now very cost effective to make the switch to nuclear.

*****When 'Tax-Exempt' Is Not*****

For decades, California's major ports and harbors have been a bright spot for urban employment growth, providing high-paying jobs and bountiful tax revenues. Therefore, the risks are huge as California's ports compete with ports all along the west coast from Mexico to Canada, including many jurisdictions that are much more job friendly than our state is.

County Assessors have proposed a special new rule concerning the taxes for leased property in government-owned ports and harbors. The goal is to make it easier to ignore the terms of government leases when re-assessing the property value and increasing taxes.

You may think that governments do not pay property taxes, and you are right, but the tenants on government land pay "possessory interest taxes" on the value of their leasehold interests. Unlike land owners, Proposition 13 does not protect government leaseholders from re-assessment, so businesses on TAX-EXEMPT government land frequently pay higher taxes than their neighbors on private property.

Even this tax windfall is not good enough for some anti-job government agencies. The new proposal would authorize county assessors to ignore the terms of leases that local governments sign with their tenants. By ignoring the lease's expiration date, the assessment of the leasehold value can be dramatically higher.

This is where the Board of Equalization is so important. The Board can vote to kill this proposal and reinstate tax fairness for port businesses. That would be the right thing to do.

MISCELLANY

*****A Good Read*****

When I thumb through the books I have collected over the years, one with most notes I wrote in the margin is “Beyond Future: How to Cure a Neurotic Society” by Frank Goble. You may have difficulty finding this volume, but it is worth putting your hands on. Goble believes the United States is a fortunate and tremendous country. He commends the many obstacles overcome, problems solved, things built, but his premise is that we have done a poor job of solving social problems. His book analyzes the deficiencies in our attempts to solve human problems and finds our failure in two areas: 1) ineffective management of important public sector institutions, and 2) the powerful influence of value-free, permissive theories of behavior. What amazes me as I reflect on this book is that it was written in 1977. All of the statistics are out-of-date, but if you inserted the updated numbers, I believe every point of this book would still stand. Goble’s conclusions that we need to teach young people self-discipline and responsibility are ever more important today. His examples of how schools have gone astray, how our welfare system fails the people it is designed to help and how our criminal justice system fails to truly provide justice are as compelling today as when they were written. The fact that nearly three decades have passed and the same advice is still needed today should give us all cause for concern, but Goble’s writing is hopeful and encouraging. You will find nuggets of wisdom in this book that will help you as a parent, teacher, elected official or businessperson.

BOE AND LEGISLATIVE DATES

October 24, 2005 --- Last day to register to vote in the statewide special election.

October 25, 2005 --- BOE meets in Sacramento.

October 25, 2005 --- BOE Taxpayers’ Bill of Rights Hearing in Sacramento.

November 1, 2005 --- Last day for voters to apply for absentee ballots for the November 8th special election.

November 1, 2005 --- BOE meets in San Diego.

November 8, 2005 --- Statewide special election.

November 11, 2005 --- Veterans’ Day.

November 15-16, 2005 --- BOE meets in Sacramento.

November 24, 2005 --- Thanksgiving Day.

NOTABLE DATES/ HISTORY

November 5, 1861 --- The first transcontinental telegram was sent, ending the Pony Express.

October 24, 1940 --- The 40-hour work week went into effect (Fair Labor Standards of 1938).

October 25, 1764 --- John Adams married Abigail Smith, beginning a marriage that would last 54 years.

October 26, 1774 --- The first Continental Congress adjourned in Philadelphia.

October 27, 1858 --- Theodore Roosevelt, the 26th President and Nobel prize recipient in 1906, was born.

October 27, 1787 --- The Federalist letters start appearing in New York newspapers, arguing for the proposed Constitution.

October 27, 1972 --- Golden Gate National Recreation Area was created.

October 28, 1886 --- The Statue of Liberty was dedicated by President Grover Cleveland and celebrated by the first confetti (ticker tape) parade in NYC.

October 28, 1989 --- The Oakland A's swept the San Francisco Giants in the earthquake/BART series.

October 29, 1960 --- A chartered C46 carrying Cal State's football team crashed, killing 16.

October 30, 1735 --- Birthdate of John Adams, the 2nd president.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115
TDD service for the hearing impaired
TDD phones: 800-735-2929
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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